

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

BEVERLY FAYE BLYTHE,

Plaintiff,

vs.

Civil No. 09-739 JCH/RLP

SOUTHWEST AIRLINES CO.,

Defendant.

**MEMORANDUM OPINION AND ORDER
DENYING PLAINTIFF'S MOTION TO AMEND and FOR EXTENSION**

On December 22, 2009, Plaintiff, Beverly Faye Blythe ("Plaintiff" herein), filed a one page Motion to amend her Complaint, and for a sixty day extension of time in which to do so. (Docket No. 20). Plaintiff stated no grounds in her motion, nor did she attach a proposed amended Complaint to Motion or to her Reply (Docket No.25).

Defendant has filed responsive pleadings in this matter.¹ Accordingly, F.R.Civ. P. 15(a) requires that Plaintiff obtain Defendant's written consent or an order of the court before she may amend her Complaint. Leave is to be freely given when justice so requires. Id.

The court's ability to determine whether leave should be granted in this case is frustrated by Plaintiff's failure to follow this District's Local Rules. Pursuant to D.N.M. LR-Civ. 15, a party seeking to amend a pleading must attach a copy of the proposed amendment his or her motion to amend.

Plaintiff is proceeding *pro se*. Therefore the court must liberally construe her pleadings.

¹ The following has been filed and fully briefed: Motion to Dismiss for Failure to State a Claim (Docket Nos. 7, 9 and 10). The following has been file, with Plaintiff's Response due January 21, 2010: Motion to Dismiss for Lack of Subject-Matter Jurisdiction and for Failure to State a Claim (Docket Nos. 18, 23).

Haines v. Kerner, 104 U.S. 519, 520-21, 26 L.Ed. 815 (1972). Nevertheless the court will not act as advocate for a pro se litigant, who must comply with the fundamental requirements of the Federal Rules of Civil Procedure. Hall v. Bellmon, 935 F.2d 1106, 1110 (10th Cir.1991). Plaintiff's *pro se* status does not entitle her to application of different rules. See Montoya v. Chao, 296 F.3d 952, 957 (10th Cir.2002); Drake v. City, 927 F.2d 1156, 1159 (10th Cir.1991) ("Despite the liberal construction afforded *pro se* pleadings, the court will not construct arguments or theories for the plaintiff in the absence of any discussion of those issues." (citation omitted)); Creative Gifts, Inc. v. UFO, 235 F.3d 540, 549 (10th Cir.2000) (*Pro se* litigants are subject to the same procedural rules as everyone else).

Plaintiff's Motion to Amend and for extension of time is **DENIED**. Plaintiff may refile this motion, provided she complies with D.N.M. LR-Civ. 15, and attaches a copy of her proposed amendment to her motion to amend.

IT IS SO ORDERED.



Richard L. Puglisi
Chief United States Magistrate Judge